

Federal Communications Commission

§0.558

or not the information in controversy is both relevant and necessary to accomplish a statutory purpose required of the Commission by law or executive order of the President.

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 45 FR 39850, June 12, 1980; 49 FR 13369, Apr. 4, 1984; 65 FR 58466, Sept. 29, 2000]

§0.557 Administrative review of an initial decision not to amend a record.

(a) Individuals have 30 days from the date of the determination not to amend a record consistent with their request to seek further administrative review by the full Commission. Such a request shall be in writing and should be addressed to either the system manager who made the initial adverse decision, or, in the case of official personnel records of active FCC employees, to the Assistant Director for Work Force Information, Compliance and Investigations Group, Office of Personnel Management, Washington, DC 20415. Any request for administrative review must:

(1) Clearly identify the questions presented for review (e.g., whether the record information in question is, in fact, accurate; whether information subject to a request to delete is relevant and necessary to the purpose for which it is maintained);

(2) Specify with particularity why the decision reached by the system manager is erroneous or inequitable; and

(3) Clearly state how the record should be amended or corrected.

(b) The Commission shall conduct an independent review of the record in controversy using the standards of review set out in §0.556(d). It may seek such additional information as is necessary to make its determination. Final administrative review shall be completed not later than 30 days (excluding Saturdays, Sundays and legal public holidays) from the date on which the individual requests such review unless the Chairman determines that a fair and equitable review cannot be made within the 30 day period. In such event, the individual will be informed in writing of the reasons for the

delay and the approximate date on which the review is expected to be completed.

(c) If upon review of the record in controversy the Commission agrees with the individual that the requested amendment is warranted, the Commission will proceed in accordance with §0.556(c)(1) (i) through (iii).

(d) If after the review, the Commission also refuses to amend the record as requested, it shall:

(1) Notify the individual in writing of its refusal and the reasons therefore;

(2) Advise the individual that a concise statement of the reasons for disagreeing with the decision of the Commission may be filed;

(3) Inform the individual:

(i) That such a statement should be signed and addressed to the system manager having custody of the record in question;

(ii) That the statement will be made available to any one to whom the record is subsequently disclosed together with, at the Commission's discretion, a summary of its reasons for refusing to amend the record; and

(iii) That prior recipients of the record will be provided a copy of the statement of dispute to the extent that an accounting of such disclosures is maintained; and

(4) Advise the individual that judicial review of the Commission's decision not to amend the record in any district court of the United States is available.

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 45 FR 39850, June 12, 1980; 49 FR 13369, Apr. 4, 1984]

§0.558 Advice and assistance.

Individuals who have questions regarding the procedures contained in this subpart for gaining access to a particular system of records or for contesting the contents of a record, either administratively or judicially, should write or call the Privacy Liaison Officer at the following address:

Federal Communications Commission, Office of General Counsel, 445 12th Street, SW., Washington, DC 20554.

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Individuals who request clarification of the Notice described in §0.552 or who have questions concerning the characterization of specific systems of records as set forth therein, should write or call the Privacy Liaison Officer at the following address:

Federal Communications Commission, Performance Evaluation and Records Management, Office of the Managing Director, 445 12th Street, SW., Washington, DC 20554

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 49 FR 13369, Apr. 4, 1984; 65 FR 58466, Sept. 29, 2000]

§0.559 Disclosure of disputed information to persons other than the individual to whom it pertains.

If the Commission determines not to amend a record consistent with an individual's request, and if the individual files a statement of disagreement pursuant to §0.557(d)(2), the Commission shall clearly annotate the record so that the disputed portion becomes apparent to anyone who may subsequently have access to, use or disclose the record. A copy of the individual's statement of disagreement shall accompany any subsequent disclosure of the record. In addition, the Commission may include a brief summary of its reasons for not amending the record when disclosing the record. Such statements become part of the individual's record for granting access, but are not subject to the amendment procedures of §0.556.

§0.560 Penalty for false representation of identity.

Any individual who knowingly and willfully requests or obtains under false pretenses any record concerning an individual from any system of records maintained by the Commission shall be guilty of a misdemeanor and subject to a fine of not more than \$5,000.

§0.561 Exemptions.

The following systems of records are totally or partially exempt from sub-

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sections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of the Privacy Act of 1974, 5 U.S.C. 552(a), and from §§0.554 through 0.557 of this subpart:

(a) *System name.* Radio Operator Records—FCC/FOB-1. Parts of this system of records are exempt pursuant to Section (k)(2) of the Act because they contain investigatory material compiled solely for law enforcement purposes.

(b) *System name.* Violators File (records kept on individuals who have been subjects of FCC field enforcement actions)—FCC/FOB-2. Parts of this system of records are EXEMPT because they are maintained as a protective service for individuals described in section 3056 of title 18, and because they are necessary for Commission employees to perform their duties, pursuant to sections (k) (1), (2), and (3) of the Act.

(c) *System name.* Attorney Misconduct Files—FCC/OGC-2. This system of records is exempt pursuant to section 3(k)(2) of the Act because it is maintained for law enforcement purposes.

(d) *System name.* Licensees or Unlicensed Persons Operating Radio Equipment Improperly—FCC. Parts of this system of records are exempt pursuant to section 3(k)(2) of the Act because they embody investigatory material compiled solely for law enforcement purposes.

(e) *System name.* Personnel Investigation Records—FCC/Central-6. Parts of these systems of records are exempt because they embody investigatory material pursuant to sections 3(k)(2) and 3(k)(5) of the Act as applicable.

(f) *System name.* Criminal Investigative Files—FCC/OIG-1. Compiled for the purpose of criminal investigations. This system of records is exempt pursuant to section (j)(2) of the Act because the records contain investigatory material compiled for criminal law enforcement purposes.

(g) *System name.* General Investigative Files—FCC/OIG-2. Compiled for law enforcement purposes. This system of records is exempt pursuant to section (k)(2) of the Act because the